

# **2013 DRAFTING REQUEST**

## **Bill**

Received:	<b>1/9/2013</b>	Received By:	<b>eshea</b>
Wanted:	<b>As time permits</b>	Same as LRB:	
For:	<b>Garey Bies (608) 266-5350</b>	By/Representing:	<b>Rep. Bies</b>
May Contact:		Drafter:	<b>eshea</b>
Subject:	<b>Children - juvenile justice</b>	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**  
 Requester's email: **Rep.Bies@legis.wisconsin.gov**  
 Carbon copy (CC) to: **elisabeth.shea@legis.wisconsin.gov**

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## **Pre Topic:**

No specific pre topic given

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## **Topic:**

Age of adult criminal jurisdiction

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## **Instructions:**

See attached

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## **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	eshea 5/6/2013	scalvin 2/4/2013	jfrantze 2/4/2013	_____	sbasford 2/4/2013		State S&L
/P2	eshea 5/24/2013	scalvin 5/8/2013	rschluet 5/8/2013	_____	srose 5/8/2013		State S&L
/1	eshea 6/6/2013	scalvin 6/3/2013	rschluet 6/3/2013	_____	srose 6/3/2013		State S&L
/2		scalvin	phenry	_____	lparisi	mbarman	State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
		6/10/2013	6/10/2013	_____	6/10/2013	7/3/2013	S&L

FE Sent For:

7/3/2013 ~~12:00:00 AM~~

→ ("1/2")

<END>

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/2		scalvin	phenry	_____	lparisi		State

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		6/10/2013	6/10/2013	_____	6/10/2013		S&L

FE Sent For:

7/3/2013 12:00:00 AM

<END>

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Wanted: **As time permits** Same as LRB:  
For: **Frederick Kessler (608) 266-5813** By/Representing: **Rep. Kessler**  
May Contact: Drafter: **eshea**  
Subject: **Children - juvenile justice** Addl. Drafters:  
Extra Copies:

Submit via email: **YES**  
Requester's email: **Rep.Kessler@legis.wisconsin.gov**  
Carbon copy (CC) to:

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### **Pre Topic:**

No specific pre topic given

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### **Topic:**

Age of adult criminal jurisdiction

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### **Instructions:**

See attached

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/2		scalvin	phenry	_____	lparisi		State

Vers. Drafted

Reviewed  
6/10/2013

Typed  
6/10/2013

Proofed  
\_\_\_\_\_

Submitted  
6/10/2013

Jacketed

Required  
S&L

FE Sent For:

07-03-2013 <END>  
("1/2")

see  
attached

## 2013 DRAFTING REQUEST

### Bill

Received: 1/9/2013  
Wanted: As time permits  
For: Frederick Kessler (608) 266-5813  
May Contact:  
Subject: Children - juvenile justice

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Same as LRB:  
By/Representing: Rep. Kessler  
Drafter: eshea  
Addl. Drafters:  
Extra Copies:

Submit via email: YES  
Requester's email: Rep.Kessler@legis.wisconsin.gov  
Carbon copy (CC) to:

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No specific pre topic given

### Topic:

Age of adult criminal jurisdiction

### Instructions:

See attached

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FE Sent For:

12sac  
06/10/2013

910ph  
ph/rr

<END>

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Received: 1/9/2013

Received By: eshea

Wanted: As time permits

Same as LRB:

For: Frederick Kessler (608) 266-5813

By/Representing: Rep. Kessler

May Contact:

Drafter: eshea

Subject: Children - juvenile justice

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Kessler@legis.wisconsin.gov

Carbon copy (CC) to:

## Pre Topic:

No specific pre topic given

## Topic:



Redraft 2011 AB 703 (LRB 11-3922).

Age of adult criminal jurisdiction

## Instructions:

See attached

## Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/P1	eshea 5/6/2013	scalvin 2/4/2013	jfrantze 2/4/2013	_____	sbasford 2/4/2013		State S&L
/P2		scalvin 5/8/2013	rschlue 5/8/2013	_____	srose 5/8/2013		State S&L
FE Sent For:		/1 sac 06/03/2013					

<END>



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 Wanted: As time permits Same as LRB:  
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Submit via email: YES  
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## Pre Topic:

No specific pre topic given

## Topic:

Redraft 2011 AB 703 (LRB 11-3922).

## Instructions:

See attached

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Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/P1	eshea 1/18/2013	scalvin 2/4/2013	jfrantze 2/4/2013		sbasford 2/4/2013		State S&L

FE Sent For:

1P2 sec  
05/08/2013

2613  
3  
<END>

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 Subject: **Children - juvenile justice** Addl. Drafters:  
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Submit via email: **YES**  
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 Carbon copy (CC) to:

## **Pre Topic:**

No specific pre topic given


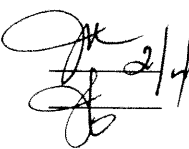
## **Topic:**

Redraft 2011 AB 703 (LRB 11-3922).

## **Instructions:**

See attached

## **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	eshea	1P1 SUC 02/04/2013	 2/4	 2/4			

FE Sent For:

<END>

13-1065

**Shea, Elisabeth**

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**From:** Malaise, Gordon  
**Sent:** Tuesday, January 08, 2013 3:21 PM  
**To:** Shea, Elisabeth  
**Subject:** FW: Redraft for 2013 session  
**Attachments:** 11-3922/1

Lis:

Here's another one that you can do. The bill changes the age of adult criminal jurisdiction from 17 to 18.

Gordon

---

**From:** Rose, Stefanie  
**Sent:** Tuesday, January 08, 2013 3:06 PM  
**To:** Malaise, Gordon  
**Cc:** Rep.Kessler  
**Subject:** Redraft for 2013 session

Gordon:  
Rep. Kessler would like 2011 AB703 (LRB 3922) redrafted for the 2013 session.  
Stefanie

Stefanie Rose  
Program Assistant  
Wisconsin Legislative Reference Bureau  
(608) 266-3561  
[Stefanie.Rose@legis.wisconsin.gov](mailto:Stefanie.Rose@legis.wisconsin.gov)



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-3922/1 1065/PI

GMM:mf:ps

EHS

Sec

RMNR

In 1-18-13

2013

2011 ASSEMBLY BILL 703

pb

March 15, 2012 - Introduced by Representatives KESSLER, DOYLE, PASCH and GRIGSBY, cosponsored by Senator TAYLOR. Referred to Committee on Criminal Justice and Corrections.

Regenerate

1 AN ACT *to amend* 48.02 (1d), 48.02 (2), 48.366 (8), subchapter IX (title) of chapter  
2 48 [precedes 48.44], 48.44 (title), 48.44 (1), 48.45 (1) (a), 48.45 (1) (am), 48.45  
3 (3), 118.163 (4), 125.07 (4) (d), 125.07 (4) (e) 1., 125.085 (3) (bt), 165.83 (1) (c) 1.,  
4 165.83 (1) (c) 2., 301.12 (2m), 301.12 (14) (a), 301.26 (4) (cm) 2., 302.31 (7),  
5 938.02 (1), 938.02 (10m), 938.12 (2), 938.18 (2), 938.183 (3), 938.255 (1) (intro.),  
6 938.34 (8), 938.343 (2), 938.344 (3), 938.35 (1m), 938.355 (4) (b), 938.355 (4m)  
7 (a), 938.39, subchapter IX (title) of chapter 938 [precedes 938.44], 938.44,  
8 938.45 (1) (a), 938.45 (3), 938.48 (4m) (title), 938.48 (4m) (a), 938.48 (4m) (b),  
9 938.48 (14), 938.57 (3) (title), 938.57 (3) (a) (intro.), 938.57 (3) (a) 1., 938.57 (3)  
10 (a) 3., 938.57 (3) (b), 946.50 (intro.), 948.01 (1), 948.11 (2) (am) (intro.), 948.45  
11 (1), 948.60 (2) (d), 948.61 (4), 961.455 (title), 961.455 (1), 961.455 (2), 961.46,  
12 961.573 (2), 961.574 (2), 961.575 (1), 961.575 (2), 961.575 (3), 990.01 (3) and  
13 990.01 (20) of the statutes; **relating to:** the age at which a person who is alleged  
14 to have violated a criminal law, a civil law, or a municipal ordinance and who

# ASSEMBLY BILL 703

1        has not previously been adjudicated delinquent is subject to circuit court or  
2        municipal court rather than juvenile court jurisdiction.

***Analysis by the Legislative Reference Bureau***

Under current law, a person 17 years of age or older who is alleged to have violated a criminal law is subject to the procedures specified in the Criminal Procedure Code and, on conviction, is subject to sentencing under the Criminal Code, which may include a sentence of imprisonment in the Wisconsin state prisons. Currently, subject to certain exceptions, a person under 17 years of age who is alleged to have violated a criminal law is subject to the procedures specified in the Juvenile Justice Code and, on being adjudicated delinquent, is subject to an array of dispositions under that code including placement in a juvenile correctional facility. This bill raises from 17 to 18 the age at which a person who is alleged to have violated a criminal law is subject to the procedures specified in the Criminal Procedure Code and, on conviction, to sentencing under the Criminal Code, if the person has not previously been adjudicated delinquent. The bill, however, does not affect the age at which a person who has previously been adjudicated delinquent is subject to those procedures and that sentencing.

Similarly, under current law, a person 17 years of age or older who is alleged to have violated a civil law or municipal ordinance is subject to the jurisdiction and procedures of the circuit court or, if applicable, the municipal court, while a person under 17 years of age who is alleged to have violated a civil law or municipal ordinance, subject to certain exceptions, is subject to the jurisdiction and procedures of the court assigned to exercise jurisdiction under the Juvenile Justice Code. This bill raises from 17 to 18 the age at which a person who is alleged to have violated a civil law or municipal ordinance is subject to the jurisdiction and procedures of the circuit court or, if applicable, the municipal court, if the person has not previously been adjudicated delinquent. The bill, however, does not affect the age at which a person who has previously been adjudicated delinquent is subject to that jurisdiction and those procedures.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

3            **SECTION 1.** 48.02 (1d)<sup>x</sup> of the statutes is amended to read:

4            48.02 **(1d)** “Adult” means a person who is 18 years of age or older, except that

5            for purposes of investigating or prosecuting a person who is alleged to have violated

6            any state or federal criminal law or any civil law or municipal ordinance, “adult”

## ASSEMBLY BILL 703

1 means includes a person ~~who has attained 17 years of age who has previously been~~  
2 adjudicated delinquent.

LPS: This ends up as  $\frac{17}{2}$   $\frac{17}{2}$  - something will happen in following pages too.

3 SECTION 2. 48.02 (2) of the statutes is amended to read:

4 48.02 (2) "Child" ~~when used without further qualification, means a person who~~  
5 is less than 18 years of age, except that for purposes of investigating or prosecuting  
6 a person who is alleged to have violated a state or federal criminal law or any civil  
7 law or municipal ordinance, "child" does not include a person ~~who has attained 17~~  
8 years of age who has previously been adjudicated delinquent.

9 SECTION 3. 48.366 (8) of the statutes is amended to read:

10 48.366 (8) TRANSFER TO OR BETWEEN FACILITIES. The department of corrections  
11 may transfer a person subject to an order between juvenile correctional facilities.  
12 After the person ~~attains the age of 17 years~~ becomes an adult, the department of  
13 corrections may place the person in a state prison named in s. 302.01, except that the  
14 department of corrections may not place any person under the age of 18 years in the  
15 correctional institution authorized in s. 301.16 (1n). If the department of corrections  
16 places a person subject to an order under this section in a state prison, that  
17 department shall provide services for that person from the appropriate  
18 appropriation under s. 20.410 (1). The department of corrections may transfer a  
19 person placed in a state prison under this subsection to or between state prisons  
20 named in s. 302.01 without petitioning for revision of the order under sub. (5) (a),  
21 except that the department of corrections may not transfer any person under the age  
22 of 18 years to the correctional institution authorized in s. 301.16 (1n).

23 SECTION 4. Subchapter IX (title) of chapter 48 [precedes 48.44] of the statutes  
24 is amended to read:

25

## CHAPTER 48

## ASSEMBLY BILL 703

## SUBCHAPTER IX

JURISDICTION OVER ~~PERSON 17~~~~OR OLDER ADULTS~~

SECTION 5. 48.44<sup>x</sup> (title) of the statutes is amended to read:

**48.44 (title) Jurisdiction over persons 17 or older adults.**

SECTION 6. 48.44<sup>x</sup> (1) of the statutes is amended to read:

48.44 (1) The court has jurisdiction over persons 17 years of age or older adults as provided under ss. 48.133, 48.355 (4)<sup>(2)</sup> and 48.45 and as otherwise specifically provided in this chapter.

SECTION 7. 48.45<sup>x</sup> (1) (a) of the statutes is amended to read:

48.45 (1) (a) If in the hearing of a case of a child alleged to be in a condition described in s. 48.13 it appears that any ~~person 17 years of age or older~~ adult has been guilty of contributing to, encouraging, or tending to cause by any act or omission, <sup>strike comma</sup> such that condition of the child, the judge may make orders with respect to the conduct of such that person in his or her relationship to the child, including orders determining the ability of the person to provide for the maintenance or care of the child and directing when, how, and from where funds for the maintenance or care shall be paid.

SECTION 8. 48.45<sup>x</sup> (1) (am) of the statutes is amended to read:

48.45 (1) (am) If in the hearing of a case of an unborn child and the unborn child's expectant mother alleged to be in a condition described in s. 48.133 it appears that any ~~person 17 years of age or over~~ adult has been guilty of contributing to, encouraging, or tending to cause by any act or omission, <sup>strike comma</sup> such that condition of the unborn child and expectant mother, the judge may make orders with respect to the

## ASSEMBLY BILL 703

1 conduct of ~~such~~ that person in his or her relationship to the unborn child and  
2 expectant mother.

3 SECTION 9. 48.45<sup>x</sup> (3) of the statutes is amended to read:

4 48.45 (3) If it appears at a court hearing that any ~~person 17 years of age or older~~  
5 adult has violated s. 948.40, the judge shall refer the record to the district attorney  
6 for criminal proceedings as may be warranted in the district attorney's judgment.  
7 This subsection does not prevent prosecution of violations of s. 948.40 without the  
8 prior reference by the judge to the district attorney, as in other criminal cases.

9 SECTION 10. 118.163<sup>λ</sup> (4) of the statutes is amended to read:

10 118.163 (4) A person who is ~~under 17 years of age~~ a minor on the date of  
11 disposition is subject to s. 938.342.

12 SECTION 11. 125.07 (4) (d)<sup>x</sup> of the statutes is amended to read:

13 125.07 (4) (d) A person who is ~~under 17 years of age~~ a minor on the date of  
14 disposition is subject to s. 938.344 unless proceedings have been instituted against  
15 the person in a court of civil or criminal jurisdiction after dismissal of the citation  
16 under s. 938.344 (3).

17 SECTION 12. 125.07 (4) (e) 1.<sup>x</sup> of the statutes is amended to read:

18 125.07 (4) (e) 1. In this paragraph, "defendant" means a person found guilty  
19 of violating par. (a) or (b) who is ~~17, 18, 19 or 20~~ an adult under 21 years of age.

20 SECTION 13. 125.085 (3) (bt)<sup>x</sup> of the statutes is amended to read:

21 125.085 (3) (bt) A person who is ~~under 17 years of age~~ a minor on the date of  
22 disposition is subject to s. 938.344 unless proceedings have been instituted against  
23 the person in a court of civil or criminal jurisdiction after dismissal of the citation  
24 under s. 938.344 (3).

25 SECTION 14. 165.83 (1) (c) 1. of the statutes is amended to read:



## ASSEMBLY BILL 703

## SECTION 14

1 165.83 (1) (c) 1. An act that is committed by ~~a person who has attained the age~~  
2 ~~of 17~~ an adult and that is a felony or a misdemeanor.

3 SECTION 15. 165.83 (1) (c) 2. of the statutes is amended to read:

4 165.83 (1) (c) 2. An act that is committed by a person minor who has attained  
5 the age of 10 ~~but who has not attained the age of 17~~ and that would be a felony or  
6 misdemeanor if committed by an adult.

7 SECTION 16. 301.12 (2m) of the statutes is amended to read:

8 301.12 (2m) The liability specified in sub. (2) shall not apply to persons 17 18  
9 and older receiving care, maintenance, services <sup>(2)</sup> and supplies provided by prisons  
10 named in s. 302.01.

11 SECTION 17. 301.12 (14) (a) of the statutes is amended to read:

12 301.12 (14) (a) Except as provided in pars. (b) and (c), liability of a person  
13 specified in sub. (2) or s. 301.03 (18) for care and maintenance of persons under 17  
14 18 years of age in residential, nonmedical facilities such as group homes, foster  
15 homes, residential care centers for children and youth, and juvenile correctional  
16 institutions is determined in accordance with the cost-based fee established under  
17 s. 301.03 (18). The department shall bill the liable person up to any amount of  
18 liability not paid by an insurer under s. 632.89 (2) or (4m) or by other 3rd-party  
19 benefits, subject to rules that include formulas governing ability to pay promulgated  
20 by the department under s. 301.03 (18). Any liability of the resident not payable by  
21 any other person terminates when the resident reaches age 17 18, unless the liable  
22 person has prevented payment by any act or omission.

23 SECTION 18. 301.26 (4) (cm) 2. of the statutes is amended to read:

24 301.26 (4) (cm) 2. Notwithstanding pars. (a), (b), and (bm), the department  
25 shall transfer funds from the appropriation under s. 20.410 (3) (cg) to the

## ASSEMBLY BILL 703

1 appropriations under s. 20.410 (3) (hm), (ho), and (hr) for the purpose of reimbursing  
2 juvenile correctional facilities, secured residential care centers for children and  
3 youth, alternate care providers, aftercare supervision providers, and corrective  
4 sanctions supervision providers for costs incurred beginning on July 1, 1996, for the  
5 care of any juvenile 14 years of age or over ~~and under 18 years of age~~ who has been  
6 placed in a juvenile correctional facility under s. 48.366 based on a delinquent act  
7 that is a violation of s. 940.01, 940.02, 940.05, or 940.225 (1).

8 **SECTION 19.** 302.31<sup>x</sup> (7) of the statutes is amended to read:

9 302.31 (7) The temporary placement of persons in the custody of the  
10 department, other than persons ~~under 17 years of age~~ minors, and ~~persons who have~~  
11 ~~attained the age of 17 years but have not attained~~ adults under the age of 25 years  
12 who are under the supervision of the department under s. 48.366 or 938.355 (4) and  
13 who have been taken into custody pending revocation of aftercare supervision under  
14 s. 48.366 (5) or 938.357 (5) (e).

15 **SECTION 20.** 938.02<sup>x</sup> (1) of the statutes is amended to read:

16 938.02 (1) "Adult" means a person who is 18 years of age or older, except that  
17 for purposes of investigating or prosecuting a person who is alleged to have violated  
18 any state or federal criminal law or any civil law or municipal ordinance, "adult"  
19 means includes a person ~~who has attained~~ 17 years of age who has previously been  
20 adjudicated delinquent.

21 **SECTION 21.** 938.02 (10m)<sup>✓</sup> of the statutes is amended to read:

22 **938.02 (10m)** "Juvenile" <sup>strike comma and quotation mark</sup> when used without further qualification, means a  
23 person who is less than 18 years of age, except that for purposes of investigating or  
24 prosecuting a person who is alleged to have violated a state or federal criminal law

## ASSEMBLY BILL 703

## SECTION 21

1 or any civil law or municipal ordinance, "juvenile" does not include a person ~~who has~~  
2 ~~attained~~ 17 years of age who has previously been adjudicated delinquent.

3 **SECTION 22.** 938.12<sup>y</sup> (2) of the statutes is amended to read:

4 938.12 (2) ~~SEVENTEEN-YEAR-OLDS~~ JUVENILES WHO BECOME ADULTS. If a petition  
5 alleging that a juvenile is delinquent is filed before the juvenile ~~is 17 years of age~~  
6 becomes an adult, but the juvenile becomes ~~17 years of age~~ an adult before admitting  
7 the facts of the petition at the plea hearing or <sup>↓</sup> if the juvenile denies the facts, before  
8 an adjudication, the court retains jurisdiction over the case.

9 **SECTION 23.** 938.18<sup>x</sup> (2) of the statutes is amended to read:

10 938.18 (2) PETITION. The petition for waiver of jurisdiction may be filed by the  
11 district attorney or the juvenile or may be initiated by the court and shall contain a  
12 brief statement of the facts supporting the request for waiver. The petition for waiver  
13 of jurisdiction shall be accompanied by or filed after the filing of a petition alleging  
14 delinquency and shall be filed prior to the plea hearing, except that if the juvenile  
15 denies the facts of the petition and becomes ~~17 years of age~~ an adult before an  
16 adjudication, the petition for waiver of jurisdiction may be filed at any time prior to  
17 the adjudication. If the court initiates the petition for waiver of jurisdiction, the  
18 judge shall disqualify himself or herself from any future proceedings on the case.

19 **SECTION 24.** 938.183<sup>x</sup> (3) of the statutes is amended to read:

20 938.183 (3) PLACEMENT IN STATE PRISON; PAROLE. When a juvenile who is subject  
21 to a criminal penalty under sub. (1m) or s. 938.183 (2), 2003 stats., ~~attains the age~~  
22 ~~of 17 years~~ becomes an adult, the department may place the juvenile in a state prison  
23 named in s. 302.01, except that the department may not place any person under the  
24 age of 18 years in the correctional institution authorized in s. 301.16 (1n). A juvenile  
25 who is subject to a criminal penalty under sub. (1m) or under s. 938.183 (2), 2003

## ASSEMBLY BILL 703

stats., for an act committed before December 31, 1999, is eligible for parole under s. 304.06.

**SECTION 25.** 938.255 (1) (intro.) of the statutes is amended to read:

938.255 (1) TITLE AND CONTENTS. (intro.) A petition initiating proceedings under this chapter, other than a petition initiating proceedings under s. 938.12, 938.125, or 938.13 (12), shall be entitled, "In the interest of (juvenile's name), a person under the age of 18" <sup>smile period and quotation mark</sup> A petition initiating proceedings under s. 938.12, 938.125, or 938.13 (12) shall be entitled, "In the interest of (juvenile's name), a ~~person~~ <sup>smile period</sup> ~~under the age of 17; juvenile~~ A petition initiating proceedings under this chapter shall specify all of the following:

**SECTION 26.** 938.34 (8) <sup>\*</sup> of the statutes is amended to read:

938.34 (8) FORFEITURE. Impose a forfeiture based upon a determination that this disposition is in the best interest of the juvenile and the juvenile's rehabilitation. The maximum forfeiture that the court may impose under this subsection for a violation by a juvenile is the maximum amount of the fine that may be imposed on an adult for committing that violation or, if the violation is applicable only to ~~a person under 18 years of age juveniles~~, \$100. The order shall include a finding that the juvenile alone is financially able to pay the forfeiture and shall allow up to 12 months for payment. If the juvenile fails to pay the forfeiture, the court may vacate the forfeiture and order other alternatives under this section; or the court may suspend any license issued under ch. 29 for not less than 30 days nor more than 5 years, or suspend the juvenile's operating privilege, as defined in s. 340.01 (40), for not more than 2 years. If the court suspends any license under this subsection, the clerk of the court shall immediately take possession of the suspended license if issued under ch. 29 or, if the license is issued under ch. 343, the court may take possession of, and if

## ASSEMBLY BILL 703

## SECTION 26

1 possession is taken, shall destroy, the license. The court shall forward to the  
2 department ~~which~~ <sup>that</sup> issued the license a notice of suspension stating that the  
3 suspension is for failure to pay a forfeiture imposed by the court, together with any  
4 license issued under ch. 29 of which the court takes possession. If the forfeiture is  
5 paid during the period of suspension, the suspension shall be reduced to the time  
6 period ~~which~~ <sup>that</sup> has already elapsed and the court shall immediately notify the  
7 department <sup>2</sup> ~~which~~ shall then, if the license is issued under ch. 29, return the license  
8 to the juvenile. Any recovery under this subsection shall be reduced by the amount  
9 recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

10 SECTION 27. 938.343 (2) <sup>x</sup> of the statutes is amended to read:

11 938.343 (2) FORFEITURE. Impose a forfeiture not to exceed the maximum  
12 forfeiture that may be imposed on an adult for committing that violation or, if the  
13 violation is only applicable to ~~a person under 18 years of age juveniles~~, \$50. The  
14 order shall include a finding that the juvenile alone is financially able to pay and  
15 shall allow up to 12 months for the payment. If a juvenile fails to pay the forfeiture,  
16 the court may suspend any license issued under ch. 29 or suspend the juvenile's  
17 operating privilege, as defined in s. 340.01 (40), for not more than 2 years. The court  
18 shall immediately take possession of the suspended license if issued under ch. 29 or,  
19 if the license is issued under ch. 343, the court may take possession of, and if  
20 possession is taken, shall destroy, the license. The court shall forward to the  
21 department ~~which~~ <sup>that</sup> issued the license the notice of suspension stating that the  
22 suspension is for failure to pay a forfeiture imposed by the court, together with any  
23 license issued under ch. 29 of which the court takes possession. If the forfeiture is  
24 paid during the period of suspension, the court shall immediately notify the  
25 department, which shall, if the license is issued under ch. 29, return the license to

## ASSEMBLY BILL 703

1 the person. Any recovery under this subsection shall be reduced by the amount  
2 recovered as a forfeiture for the same act under s. 938.45 (1r) (b).

3 **SECTION 28.** 938.344 (3)<sup>x</sup> of the statutes is amended to read:

4 938.344 (3) PROSECUTION IN ADULT COURT. If the juvenile alleged to have  
5 committed the violation is within 3 months of ~~his or her 17th birthday~~ becoming an  
6 adult, the court assigned to exercise jurisdiction under this chapter and ch. 48 may,  
7 at the request of the district attorney or on its own motion, dismiss the citation  
8 without prejudice and refer the matter to the district attorney for prosecution under  
9 s. 125.07 (4). The juvenile is entitled to a hearing only on the issue of his or her age.  
10 This subsection does not apply to violations under s. 961.573 (2), 961.574 (2), or  
11 961.575 (2) or a local ordinance that strictly conforms to one of those statutes.

12 **SECTION 29.** 938.35 (1m)<sup>x</sup> of the statutes is amended to read:

13 938.35 (1m) FUTURE CRIMINAL PROCEEDINGS BARRED. Disposition by the court  
14 assigned to exercise jurisdiction under this chapter and ch. 48 of any allegation  
15 under s. 938.12 or 938.13 (12) shall bar any future proceeding on the same matter  
16 in criminal court when the juvenile ~~attains 17 years of age~~ becomes an adult. This  
17 ~~paragraph~~ subsection does not affect proceedings in criminal court that have been  
18 transferred under s. 938.18.

19 **SECTION 30.** 938.355 (4) (b)<sup>λ</sup> of the statutes is amended to read:

20 938.355 (4) (b) Except as provided in s. 938.368, an order under s. 938.34 (4d)  
21 or (4m) made before the juvenile attains 18 years of age may apply for up to 2 years  
22 after the date on which the order is granted or until the juvenile's ~~18th~~ 19th birthday,  
23 whichever is earlier, unless the court specifies a shorter period of time or the court  
24 terminates the order sooner. If the order does not specify a termination date, it shall  
25 apply for one year after the date on which the order is granted or until the juvenile's

## ASSEMBLY BILL 703

## SECTION 30

1 ~~18th~~ 19th birthday, whichever is earlier, unless the court terminates the order  
2 sooner. Except as provided in s. 938.368, an order under s. 938.34 (4h) made before  
3 the juvenile attains 18 years of age shall apply for 5 years after the date on which the  
4 order is granted, if the juvenile is adjudicated delinquent for committing a violation  
5 of s. 943.10 (2) or for committing an act that would be punishable as a Class B or C  
6 felony if committed by an adult, or until the juvenile reaches 25 years of age, if the  
7 juvenile is adjudicated delinquent for committing an act that would be punishable  
8 as a Class A felony if committed by an adult. Except as provided in s. 938.368, an  
9 extension of an order under s. 938.34 (4d), (4h), (4m), or (4n) made before the juvenile  
10 attains ~~17 years of age~~ becomes an adult shall terminate at the end of one year after  
11 the date on which the order is granted unless the court specifies a shorter period of  
12 time or the court terminates the order sooner. No extension under s. 938.365 of an  
13 original dispositional order under s. 938.34 (4d), (4h), (4m), or (4n) may be granted  
14 for a juvenile who ~~is 17 years of age or older when~~ becomes an adult by the time the  
15 original dispositional order terminates.

16 **SECTION 31.** 938.355 (4m)<sup>\*</sup> (a) of the statutes is amended to read:

17 938.355 **(4m)** (a) A juvenile who has been adjudged delinquent under s. 48.12,  
18 1993 stats., or s. 938.12 may, on ~~attaining 17 years of age~~ becoming an adult, petition  
19 the court to expunge the court's record of the juvenile's adjudication. Subject to par.  
20 (b), the court may expunge the record if the court determines that the juvenile has  
21 satisfactorily complied with the conditions of his or her dispositional order and that  
22 the juvenile will benefit from, and society will not be harmed by, the expungement.

23 **SECTION 32.** 938.39<sup>×</sup> of the statutes is amended to read:

24 **938.39 Disposition by court bars criminal proceeding.** Disposition by the  
25 court of any violation of state law within its jurisdiction under s. 938.12 bars any

## ASSEMBLY BILL 703

future criminal proceeding on the same matter in circuit court when the juvenile reaches the age of 17 becomes an adult. This section does not affect criminal proceedings in circuit court that were transferred under s. 938.18.

SECTION 33. Subchapter IX (title) of chapter 938 [precedes 938.44] of the statutes is amended to read:

## CHAPTER 938

## SUBCHAPTER IX

## JURISDICTION OVER PERSONS 17

## OR OLDER ADULTS

SECTION 34. 938.44 of the statutes is amended to read:

**938.44 Jurisdiction over persons 17 or older adults.** The court has jurisdiction over persons 17 years of age or older adults as provided under ss. 938.355 (4) and 938.45 and as otherwise specified in this chapter.

SECTION 35. 938.45 (1) (a) of the statutes is amended to read:

938.45 (1) (a) If in the hearing of a case of a juvenile alleged to be delinquent under s. 938.12 or in need of protection or services under s. 938.13 it appears that any person 17 years of age or older adult has been guilty of contributing to, encouraging, or tending to cause by any act or omission, <sup>strike comma</sup> ~~such that~~ condition of the juvenile, the court may make orders with respect to the conduct of that person in his or her relationship to the juvenile, including orders relating to determining the ability of the person to provide for the maintenance or care of the juvenile and directing when, how, and from where funds for the maintenance or care shall be paid.

SECTION 36. 938.45 (3) of the statutes is amended to read:

938.45 (3) PROSECUTION OF ADULT CONTRIBUTING TO DELINQUENCY OF JUVENILE. If it appears at a court hearing that any person 17 years of age or older adult has



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## SECTION 36

1 violated s. 948.40, the court shall refer the record to the district attorney. This  
2 subsection does not prohibit prosecution of violations of s. 948.40 without the prior  
3 reference by the court to the district attorney.

4 **SECTION 37.** 938.48 (4m) <sup>\*</sup> (title) of the statutes is amended to read:

5 938.48 (4m) (title) CONTINUING CARE AND SERVICES FOR JUVENILES ~~OVER 17~~ WHO  
6 BECOME ADULTS.

7 **SECTION 38.** 938.48 (4m) <sup>\*</sup> (a) of the statutes is amended to read:

8 938.48 (4m) (a) Is ~~at least 17 years of age~~ an adult.

9 **SECTION 39.** 938.48 (4m) <sup>✓</sup> (b) of the statutes is amended to read:

10 938.48 (4m) (b) Was under the supervision of the department under s. 938.183,  
11 938.34 (4h), (4m) <sup>1</sup> ~~or~~ (4n) <sup>1</sup> ~~or~~ 938.357 (4) when the person ~~reached 17 years of age~~  
12 became an adult.

13 **SECTION 40.** 938.48 (14) <sup>✓</sup> of the statutes is amended to read:

14 938.48 (14) SCHOOL-RELATED EXPENSES FOR JUVENILES ~~OVER 17~~ WHO BECOME  
15 ADULTS. Pay maintenance, tuition, and related expenses from the appropriation  
16 under s. 20.410 (3) (ho) for persons who, when they ~~attained 17 years of age~~ became  
17 adults, were students regularly attending a school, college, or university or regularly  
18 attending a course of vocational or technical training designed to prepare them for  
19 gainful employment, and who upon attaining ~~that age~~ adulthood were under the  
20 supervision of the department under s. 938.183, 938.34 (4h), (4m), or (4n), or 938.357  
21 (4) as a result of a judicial decision.

22 **SECTION 41.** 938.57 (3) <sup>\*</sup> (title) of the statutes is amended to read:

23 938.57 (3) (title) CONTINUING MAINTENANCE FOR JUVENILES ~~OVER 17~~ WHO BECOME  
24 ADULTS.

25 **SECTION 42.** 938.57 (3) (a) (intro.) of the statutes is amended to read:

**ASSEMBLY BILL 703**

1           938.57 (3) (a) (intro.) From the reimbursement received under s. 48.569 (1) (d),  
2           counties may provide funding for the maintenance of any ~~juvenile~~ person who meets  
3           all of the following qualifications:

4           **SECTION 43.** 938.57 (3) (a) 1.<sup>✓</sup> of the statutes is amended to read:

5           938.57 (3) (a) 1. Is ~~17 years of age or older~~ an adult.

6           **SECTION 44.** 938.57 (3) (a) 3.<sup>✓</sup> of the statutes is amended to read:

7           938.57 (3) (a) 3. Received funding under s. 48.569 (1) (d) immediately prior to  
8           ~~his or her 17th birthday~~ becoming an adult.

9           **SECTION 45.** 938.57 (3) (b)<sup>x</sup> of the statutes is amended to read:

10          938.57 (3) (b) The funding provided for the maintenance of a juvenile person  
11          under par. (a) shall be in an amount equal to that to which the juvenile person would  
12          receive under s. 48.569 (1) (d) if the person were a juvenile ~~were 16 years of age~~.

13          **SECTION 46.** 946.50<sup>x</sup> (intro.) of the statutes is amended to read:

14          **946.50 Absconding.** (intro.) Any person who is adjudicated delinquent, but  
15          who intentionally fails to appear before the court assigned to exercise jurisdiction  
16          under chs. 48 and 938 for his or her dispositional hearing under s. 938.335, and who  
17          does not return to that court for a dispositional hearing before ~~attaining the age of~~  
18          ~~17 years~~ becoming an adult is guilty of the following:

19          **SECTION 47.** 948.01 (1)<sup>x</sup> of the statutes is amended to read:

20          948.01 (1) "Child" means a person who has not attained the age of 18 years,  
21          except that for purposes of prosecuting a person who is alleged to have violated a  
22          state or federal criminal law, "child" does not include a person ~~who has attained the~~  
23          ~~age of 17 years~~ of age who had previously been adjudicated delinquent.

24          **SECTION 48.** 948.11 (2) (am)<sup>x</sup> (intro.) of the statutes is amended to read:

**ASSEMBLY BILL 703****SECTION 48**

1           948.11 (2) (am) (intro.) Any ~~person who has attained the age of 17 and~~ adult  
2           who, with knowledge of the character and content of the description or narrative  
3           account, verbally communicates, by any means, a harmful description or narrative  
4           account to a child, with or without monetary consideration, is guilty of a Class I  
5           felony if any of the following applies:

6           **SECTION 49.** 948.45<sup>x</sup> (1) of the statutes is amended to read:

7           948.45 (1) Except as provided in sub. (2), any ~~person 17 years of age or older~~  
8           adult who, by any act or omission, knowingly encourages or contributes to the  
9           truancy, as defined under s. 118.16 (1) (c), of a ~~person 17 years of age or under~~ child  
10          is guilty of a Class C misdemeanor.

11          **SECTION 50.** 948.60 (2)<sup>x</sup> (d) of the statutes is amended to read:

12          948.60 (2) (d) A ~~person under 17 years of age~~ child who has violated this  
13          subsection is subject to the provisions of ch. 938 unless jurisdiction is waived under  
14          s. 938.18 or the person is subject to the jurisdiction of a court of criminal jurisdiction  
15          under s. 938.183.

16          **SECTION 51.** 948.61<sup>x</sup> (4) of the statutes is amended to read:

17          948.61 (4) A ~~person under 17 years of age~~ child who has violated this section  
18          is subject to the provisions of ch. 938, unless jurisdiction is waived under s. 938.18  
19          or the person is subject to the jurisdiction of a court of criminal jurisdiction under s.  
20          938.183.

21          **SECTION 52.** 961.455<sup>x</sup> (title) of the statutes is amended to read:

22          **961.455 (title) Using a child minor for illegal drug distribution or**  
23          **manufacturing purposes.**

24          **SECTION 53.** 961.455<sup>✓</sup> (1) of the statutes is amended to read:

## ASSEMBLY BILL 703

1           961.455 (1) Any ~~person who has attained the age of 17 years~~ adult who  
2 knowingly solicits, hires, directs, employs, or uses a ~~person who is under the age of~~  
3 ~~17 years~~ minor for the purpose of violating s. 961.41 (1) is guilty of a Class F felony.

4           <sup>x</sup>  
SECTION 54. 961.455 (2) of the statutes is amended to read:

5           961.455 (2) The knowledge requirement under sub. (1) does not require proof  
6 of knowledge of the age of the ~~child~~ minor. It is not a defense to a prosecution under  
7 this section that the actor mistakenly believed that the person solicited, hired,  
8 directed, employed, or used under sub. (1) had attained the age of 18 years, even if  
9 the mistaken belief was reasonable.

10           <sup>x</sup>  
SECTION 55. 961.46 of the statutes is amended to read:

11           **961.46 Distribution to persons under age 18 minors.** If ~~a person 17 years~~  
12 ~~of age or over~~ an adult violates s. 961.41 (1) by distributing or delivering a controlled  
13 substance or a controlled substance analog to a ~~person 17 years of age or under~~ minor  
14 who is at least 3 years his or her junior, the applicable maximum term of  
15 imprisonment prescribed under s. 961.41 (1) for the offense may be increased by not  
16 more than 5 years.

17           <sup>x</sup>  
SECTION 56. 961.573 (2) of the statutes is amended to read:

18           961.573 (2) Any ~~person~~ minor who violates sub. (1) ~~who is under 17 years of age~~  
19 is subject to a disposition under s. 938.344 (2e).

20           <sup>x</sup>  
SECTION 57. 961.574 (2) of the statutes is amended to read:

21           961.574 (2) Any ~~person~~ minor who violates sub. (1) ~~who is under 17 years of age~~  
22 is subject to a disposition under s. 938.344 (2e).

23           <sup>^</sup>  
SECTION 58. 961.575 (1) of the statutes is amended to read:

24           961.575 (1) Any ~~person 17 years of age or over~~ adult who violates s. 961.574 (1)  
25 by delivering drug paraphernalia to a ~~person 17 years of age or under~~ minor who is

**ASSEMBLY BILL 703****SECTION 58**

1 at least 3 years younger than the violator may be fined not more than \$10,000 or  
2 imprisoned for not more than 9 months or both.

3 **SECTION 59.** 961.575<sup>x</sup> (2) of the statutes is amended to read:

4 961.575 (2) Any person minor who violates this section ~~who is under 17 years~~  
5 ~~of age~~ is subject to a disposition under s. 938.344 (2e).

6 **SECTION 60.** 961.575<sup>x</sup> (3) of the statutes is amended to read:

7 961.575 (3) Any person ~~17 years of age or over~~ adult who violates s. 961.574 (3)  
8 by delivering drug paraphernalia to a person ~~17 years of age or under~~ minor is guilty  
9 of a Class G felony.

10 **SECTION 61.** 990.01<sup>x</sup> (3) of the statutes is amended to read:

11 990.01 (3) ADULT. "Adult" means a person who has attained the age of 18 years,  
12 except that for purposes of investigating or prosecuting a person who is alleged to  
13 have violated any state or federal criminal law or any civil law or municipal  
14 ordinance, "adult" ~~means~~ includes a person ~~who has attained the age of 17 years of~~  
15 age who has previously been adjudicated delinquent.

16 **SECTION 62.** 990.01<sup>x</sup> (20) of the statutes is amended to read:

17 990.01 (20) MINOR. "Minor" means a person who has not attained the age of  
18 18 years, except that for purposes of investigating or prosecuting a person who is  
19 alleged to have violated a state or federal criminal law or any civil law or municipal  
20 ordinance, "minor" does not include a person ~~who has attained the age of 17 years~~  
21 of age who has previously been adjudicated delinquent.

22 **SECTION 63. Initial applicability.**

**ASSEMBLY BILL 703**

1           (1) AGE OF ADULT JURISDICTION. This act first applies to a violation of a criminal  
2       law, civil law, or municipal ordinance allegedly committed on the effective date of this  
3       subsection.

**4 (END)**

**Shea, Elisabeth**

**From:** Tenuta, Christina  
**Sent:** Thursday, April 25, 2013 1:53 PM  
**To:** Shea, Elisabeth; Malaise, Gordon  
**Subject:** Changes to LRB - 1065

Dear Attorneys Shea and Malaise:

Rep. Kessler would like to request two changes to LRB – 1065, the Raise-the-Age Bill.

1. The implementation date should be changed to January 1, 2015 to give us time to pass the bill, and Counties time to prepare for an increased caseload in their juvenile system.
2. Rep. Bies and Rep. Kessler have been discussing making a change to the bill so that all charges of "violent felonies" will result in an automatic waiver into adult court – versus leaving it up to a judge to waive the minor into adult court, which is how the bill is written now. The list of violent felonies that would waive a juvenile into adult court include all of the following:

- Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09 (1c), 940.19 (2), (4) or (5), 940.21, 940.225 (except 3m), 940.32 (2), (1), (2) or (3), 940.235, 940.305, 940.31, 941.20, 941.21, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.051, 948.055, 948.07, 948.08, 948.085, or 948.30 (2) or unders. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.
- The solicitation, conspiracy or attempt, under s. 939.30, 939.31 or 939.32, to commit a Class A felony.
- Any misdemeanor under s. 940.19 (1), 940.225 (3m), 940.32 (2), 940.42, 940.44, 941.20 (1), 941.23, 941.35, 941.24 or 941.38 (3)  
*except (1)(a)*

However, Rep. Kessler would like to next make an *exception* to the automatic waiver into adult court for a juvenile charged with the following crimes.

**MISDEMEANORS****940.19(1) – Substantial Battery – Misdemeanor Class A**

- This misdemeanor should not subject the minor defendant to an automatic waiver into adult court - fighting is something minors routinely engage in.

**940.225(3m) – Fourth Degree Sexual Assault – Misdemeanor Class A**

- This misdemeanor should not subject the minor defendant to an automatic waiver into adult court. In my experience as a judge, most charges of Fourth Degree Sexual Assault occur when an individual touches the clothed buttocks of another person, which does not automatically rise to the level of violence required for an automatic waiver into adult court.

**940.32(2) – Stalking – Felony Class I**

- This is already a felony, and as such, should remain as a crime that subjects the minor defendant to an automatic waiver into adult court.

**940.44 – Intimidation of victims; Misdemeanor Class A**

- This misdemeanor should not subject the minor defendant to an automatic waiver into adult court. The language of the statute, specifically the clause "whoever knowingly and maliciously prevents or *dissuades* or

attempts to prevent or *dissuade*, another person who has been the victim..." is very broad and can easily be construed to include the making of a mere meaningless threat to a victim. (Wis. Stat. Sec. 940.44, italics added).

941.20(1)(a) – Endangering safety by use of a dangerous weapon - Misdemeanor Class A

- This misdemeanor should not subject the minor defendant to an automatic waiver into adult court. Wis. Stat. 941.20(1)(a) relates specifically to the "negligent operation or handling of a dangerous weapon..." Since the required *mens rea* (the mental state required for committing certain crimes) is negligence and not intentional, the level of violence does not rise to the level of requiring an automatic waiver into adult court.

941.23 – Carrying a concealed weapon - Misdemeanor Class A

- This misdemeanor should not subject the minor defendant to an automatic waiver into adult court.

941.235 – Carrying a firearm in a public building - Misdemeanor Class A

- This misdemeanor should not subject the minor defendant to an automatic waiver into adult court.

941.24 – Possession of a switchblade knife - Misdemeanor Class A

- This misdemeanor should remain as one of the crimes that require an automatic waiver of the minor defendant into adult court.

941.38(3) – Criminal gang member solicitation and contact - Misdemeanor Class A

- The intentional violation of a court order to refrain from contacting a criminal gang member is a misdemeanor that should not subject the minor defendant to an automatic waiver into adult court.

Thank you for your assistance. Please let me know if I can provide you with any further information.

Sincerely,

Christina M. Tenuta, J.D.  
Office of Wisconsin State Representative Frederick P. Kessler  
608-266-5813



## Shea, Elisabeth

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**From:** Malaise, Gordon  
**Sent:** Thursday, April 25, 2013 2:24 PM  
**To:** Tenuta, Christina; Shea, Elisabeth  
**Subject:** RE: Changes to LRB - 1065

Lis:

In drafting this change I suppose what you'll do is amend the definition of "juvenile" so it says, "'juvenile' does not include a person 17 years of age who has previously been adjudicated delinquent or who is alleged to have committed any of the following:

1. Any felony under . . .
2. The solicitation . . .

A corresponding change to the definition of "adult" would also have to be made.

As for the exceptions requested by Rep. Kessler, I would just leave those silent as the general definition of "juvenile," i.e., a person under 18, would include them and s. 938.18 (1) (c) would permit the juvenile court to waive them into adult court.

Gordon

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**From:** Tenuta, Christina  
**Sent:** Thursday, April 25, 2013 1:53 PM  
**To:** Shea, Elisabeth; Malaise, Gordon  
**Subject:** Changes to LRB - 1065

Dear Attorneys Shea and Malaise:

Rep. Kessler would like to request two changes to LRB – 1065, the Raise-the-Age Bill.

1. The implementation date should be changed to January 1, 2015 to give us time to pass the bill, and Counties time to prepare for an increased caseload in their juvenile system.
2. Rep. Bies and Rep. Kessler have been discussing making a change to the bill so that all charges of "violent felonies" will result in an automatic waiver into adult court – versus leaving it up to a judge to waive the minor into adult court, which is how the bill is written now. The list of violent felonies that would waive a juvenile into adult court include all of the following:
  - Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09 (1c), 940.19 (2), (4) or (5), 940.21, 940.225 (1), (2) or (3), 940.235, 940.305, 940.31, 941.20, 941.21, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.051, 948.055, 948.07, 948.08, 948.085, or 948.30 (2) or unders. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.
  - The solicitation, conspiracy or attempt, under s. 939.30, 939.31 or 939.32, to commit a Class A felony.
  - Any misdemeanor under s. 940.19 (1), 940.225 (3m), 940.32 (2), 940.42, 940.44, 941.20 (1), 941.23, 941.235, 941.24 or 941.38 (3)

However, Rep. Kessler would like to next make an *exception* to the automatic waiver into adult court for a juvenile charged with the following crimes.

#### MISDEMEANORS

##### 940.19(1) – Substantial Battery – Misdemeanor Class A

- This misdemeanor should not subject the minor defendant to an automatic waiver into adult court - fighting is something minors routinely engage in.

##### 940.225(3m) – Fourth Degree Sexual Assault – Misdemeanor Class A

- This misdemeanor should not subject the minor defendant to an automatic waiver into adult court. In my experience as a judge, most charges of Fourth Degree Sexual Assault occur when an individual touches the clothed buttocks of another person, which does not automatically rise to the level of violence required for an automatic waiver into adult court.

##### 940.32(2) – Stalking – Felony Class I

- This is already a felony, and as such, should remain as a crime that subjects the minor defendant to an automatic waiver into adult court.

##### 940.44 – Intimidation of victims; Misdemeanor Class A

- This misdemeanor should not subject the minor defendant to an automatic waiver into adult court. The language of the statute, specifically the clause “whoever knowingly and maliciously prevents or *dissuades* or attempts to prevent or *dissuade*, another person who has been the victim...” is very broad and can easily be construed to include the making of a mere meaningless threat to a victim. (Wis. Stat. Sec. 940.44, italics added).

##### 941.20(1)(a) – Endangering safety by use of a dangerous weapon - Misdemeanor Class A

- This misdemeanor should not subject the minor defendant to an automatic waiver into adult court. Wis. Stat. 941.20(1)(a) relates specifically to the “negligent operation or handling of a dangerous weapon...” Since the required *mens rea* (the mental state required for committing certain crimes) is negligence and not intentional, the level of violence does not rise to the level of requiring an automatic waiver into adult court.

##### 941.23 – Carrying a concealed weapon - Misdemeanor Class A

- This misdemeanor should not subject the minor defendant to an automatic waiver into adult court.

##### 941.235 – Carrying a firearm in a public building - Misdemeanor Class A

- This misdemeanor should not subject the minor defendant to an automatic waiver into adult court.

##### 941.24 – Possession of a switchblade knife - Misdemeanor Class A

- This misdemeanor should remain as one of the crimes that require an automatic waiver of the minor defendant into adult court.

##### 941.38(3) – Criminal gang member solicitation and contact - Misdemeanor Class A

- The intentional violation of a court order to refrain from contacting a criminal gang member is a misdemeanor that should not subject the minor defendant to an automatic waiver into adult court.

Thank you for your assistance. Please let me know if I can provide you with any further information.

Sincerely,

Christina M. Tenuta, J.D.

Office of Wisconsin State Representative Frederick P. Kessler

## Shea, Elisabeth

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**From:** Tenuta, Christina  
**Sent:** Tuesday, April 30, 2013 8:56 AM  
**To:** Shea, Elisabeth  
**Subject:** RE: Changes to LRB - 1065

Dear Lis:

Yes- you are correct. Thank you for following up. Stalking and Possession of switchblade knife should remain in the category of crimes that require an automatic waiver into adult court.

Thanks,

Christina M. Tenuta, J.D.  
Office of Wisconsin State Representative Frederick P. Kessler  
608-266-5813

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**From:** Shea, Elisabeth  
**Sent:** Friday, April 26, 2013 2:01 PM  
**To:** Tenuta, Christina  
**Subject:** RE: Changes to LRB - 1065

Christina:

One clarification. I noticed that the comments under two of the statute sections listed as exceptions in your email actually say that they should remain as crimes that require an automatic waiver into adult court (see below). In this draft, should these be exceptions to the automatic waiver, or should they require an automatic waiver?

Lis

### 940.32(2) – Stalking – Felony Class I

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**From:** Tenuta, Christina  
**Sent:** Thursday, April 25, 2013 1:53 PM  
**To:** Shea, Elisabeth; Malaise, Gordon  
**Subject:** Changes to LRB - 1065

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Sincerely,

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608-266-5813